

particular purposes for which the product is suitable or that the product is not a complete food.

(b) When used as part of a product name or statement of identity, the name of a particular ingredient should not be set forth in such a manner as to mislead prospective purchasers into believing that there is a greater proportion of such ingredient in the product than there is in fact. For example, if a product is composed of 80 percent meat byproducts and 15 percent beef, and 5 percent other ingredients, and is designated as “meat by-products and beef”, the word “beef” in the product name or statement of identity should not be more conspicuous than the words “meat by-products.” [Guide 4]

§ 241.5 Misrepresenting composition, form, suitability, or quality in advertising.

An industry member should not make any representation in an advertisement¹ which has the capacity and tendency or effect of deceiving purchasers or prospective purchasers as to the composition, appearance, form, suitability or quality of an industry product or of any ingredient thereof. More specifically:

(a) A product should not be described in advertising as “all meat” or “100 percent meat,” or “all tuna,” or “all chicken,” or otherwise represented as being composed wholly of a named ingredient if it contains other ingredients such as the byproducts of meat, poultry, or fish. However, for the purpose of this provision, water sufficient for processing, required decharacterizing agents, and trace amounts of preservatives and condiments shall not be considered ingredients.

¹The word “advertising” or “advertisement” as used in this part includes any written or verbal statement, notice presentation, illustration, or depiction, other than labelling, which is directly or indirectly designed to effect the sale of any industry product, or to create an interest in the purchase of any such product, whether same appears in a newspaper, magazine, or other periodical, in a catalog, letter, or sales promotional literature, in a radio or television broadcast, or in any other media.

(b) The name or names of ingredients derived from animals, poultry or fish, such as “meat,” “beef,” “tuna,” or “chicken and eggs” should not be used as a complete description of the composition of an industry product unless the product contains at least 95 percent by weight of the named ingredient or combination of such ingredients. If the product contains more than one ingredient derived from animals, poultry, or fish, the name of a preferred ingredient should not be given precedence or undue prominence so as to create the impression that the product contains a greater amount of that ingredient than it does in fact. For example, if a product contains 70 percent eggs and 25 percent chicken it should be described as “eggs and chicken.”

(c) The names of ingredients derived from animals, poultry or fish or words or terms suggestive thereof, or representations that a product contains such ingredients, should not be used in advertising respecting an industry product unless the ingredients so named, represented, or suggested are present in the product in substantial amounts and the name, word, term, or representation is accompanied by a clear and conspicuous disclosure of the nature of the other ingredients contained in the product. The disclosure contemplated by this provision does not necessitate a complete listing of ingredients but only such description as is necessary to remove any likelihood of deception as to the general nature and composition of the product. However, no ingredient should be given undue emphasis so as to create the impression that it is present in the product in a larger amount than is the fact. This provision is not intended to preclude the use of such names or terms as descriptive of the flavor of a product which has the flavor represented and is immediately followed by the word “flavor” (see § 241.7 of this part), or to affect the use in advertising of product names or statements of identity which conform to the provisions of § 241.4 of this part. The following are examples of appropriate disclosures under this paragraph:

(1) “A meaty mixture of vegetables, cereals, and other nutritional ingredients.”

(2) "Contains cereals, vegetables, and meat."

(d) Such terms as "stew," "hash," or other human food terms should not be used to describe an industry product or an ingredient thereof which is not so constituted as to conform to Federal standards of identity established for such foods. However, the specified percentages of meat, poultry, or fish ingredients may properly be composed of the named ingredient or of a combination of that ingredient and the parts of poultry or fish, or the byproducts of animals, poultry, or fish from which the ingredient was derived. For example, a product described as "Meat Stew for Dogs" should contain not less than 25 percent meat and meat byproducts, or a product described as "Chicken Stew for Dogs" should contain not less than 25 percent chicken and chicken parts, or a product described as "Pet Stew for Dogs" should contain not less than 25 percent meat and meat byproducts, or poultry products, and a variety of vegetables and other nutritional ingredients.

(e) Representations that a product contains or is fortified with fresh eggs should not be made if the product in fact contains no fresh eggs or an inappreciable amount thereof, or only dried or powdered eggs or egg yolks or egg whites, or only such eggs as may be found in the carcasses of poultry.

(f) Representations that an industry product contains whole fresh milk should not be made if the product in fact contains reconstituted milk, skimmed milk, buttermilk, or dry powdered whole or skimmed milk.

(g) Representations that a product or an ingredient thereof is "moist in its own juices" or otherwise that the moisture therein is the natural juices contained in the product or ingredients should not be made if water or other liquids have been added thereto.

(h) Vignettes and graphic and pictorial illustrations of an industry product or the contents, ingredients on immediate container thereof, which have the capacity and tendency or effect of misleading or deceiving purchasers or prospective purchasers with respect to the appearance, substance, condition, or composition of the product or its ingredients should not be used. A pic-

torial or other depiction of a product which has the appearance of being composed entirely of meat or of other ingredients derived from animals, poultry or fish, but which in fact is not so composed, should be accompanied by a clear and conspicuous disclosure of the nature of the ingredients contained in the product.

(i) Terms such as "burger," "chunk," "patty," "cubes," "loaf," "croquettes," and others of similar import, should not be used to describe a product or an ingredient thereof which does not have substantially the shape or form so represented when it is sold to the retail purchaser. Terms denoting shape or form which also suggest ingredients derived from animals, poultry, or fish are subject to the provisions of this part relating to misrepresentation of content.

(j) The quality of an industry product from the nutritional standpoint is not necessarily dependent upon its meat content, or upon the amount or nature of other ingredients derived from animals, poultry or fish which it may contain. Accordingly, it is improper to represent that a dog or cat has a nutritional requirement for such an ingredient, or that solely because a particular industry product contains, for example, a specified percentage of meat it is nutritionally superior to products having a lesser quantity of meat, or to those which contain other and different ingredients. Such advertising is deceptive because it does not take into consideration the nutritional properties of various ingredients or combinations thereof used in the formulation and processing of industry products.

(k) Representations or claims by an industry member that a product is superior to other products from the standpoint of quality, composition, nutritional properties or method of manufacture should not be made unless the advertiser has established on the basis of accurate comparative analyses or scientifically valid tests that such is the fact. Comparatives such as "meatier," "higher meat protein," and "greater meat content" should not be used as descriptive of an industry product or an ingredient thereof without disclosing the basis of comparison, e.g., "meatier than our other products."

(l) It is deceptive to offer for sale or sell an industry product which is not suitable for use as a food for dogs or cats. As a prospective purchaser usually cannot ascertain by inspection whether an industry product will satisfy all of the nutritional requirements of a dog or cat, advertising respecting a product which is suitable only for particular purposes, e.g., as an intermittent or supplemental food, a special food for puppies, a protein supplement, or as a maintenance food for mature dogs, or is otherwise not a complete food, should not contain direct or implied representations which are misleading with respect to the purposes for which the product is suitable. To avoid misleading prospective purchasers in this respect it is generally necessary to disclose clearly and conspicuously the particular purposes for which the product is suitable or that the product is not a complete food. This disclosure is especially necessary where in the absence thereof purchasers would be led by the advertising to believe that the product is nutritionally complete.

(m) Advertising should not contain any representation with respect to the identity, composition, or suitability of any industry product or an ingredient thereof, which contradicts, negates or is otherwise inconsistent with any representation, statement, direction for use, or other information which appears in the labeling of such a product.

(n) In advertisements pertaining to more than one of its products an industry member should use only such terms as are properly applicable to all of the products so advertised, unless the advertisement specifically identifies the particular products to which certain representations are applicable. For example, if "Y Company" has on the market an "all meat" product for dogs, an "all tuna" products for cats, and two separate, complete ration-type foods for dogs and cats respectively, it should not in a single advertisement represent that Y products are complete foods, or that they are "all meat." [Guide 5]

§241.6 Misrepresentation of color in advertising.

An industry member should not misrepresent directly or indirectly, in ad-

vertising, the actual color of an industry product. More specifically, it should not represent that the color of a product is its natural color when such color has been established by artificial means; or that a product does not contain an artificial coloring ingredient unless this is true in fact; or that the color of a product is of any particular significance to a dog or to a cat. [Guide 6]

§241.7 Misrepresentation of flavor in advertising.

An industry member should not represent directly or indirectly, in advertising, that a product has a particular flavor unless the product has that flavor and the designated or named flavor is detectable by a recognized test method, or provides a characteristic distinguishable by the animal for which the product is intended. If the advertisement contains representations respecting flavor and the flavor has been derived from artificial sources that fact should be disclosed. [Guide 7]

§241.8 Diet and nutrient misrepresentation.

An industry member should not represent directly or indirectly, in advertising, labeling, brand or tradename, or otherwise:

(a) That an industry product, or a recommended feeding thereof, is or meets the requisites of a complete, perfect, scientific, or balanced ration for dogs or cats unless such product or feeding:

(1) Contains ingredients in quantities sufficient to satisfy the estimated nutrient requirements established by a recognized authority on animal nutrition, such as The Committee on Animal Nutrition of the National Research Council of the National Academy of Sciences; or

(2) Contains a combination of ingredients which, when fed to a normal animal as the only source of nourishment, will provide satisfactorily for fertility of the male and female, gestation and lactation, normal growth from weaning to maturity without supplementary feeding and will maintain the normal weight of an adult animal whether